IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

IN RE:	§	
	§	
LJR PROPERTIES LTD.	§	Case No. 10-60919
	§	
Debtor	§	Chapter 11

MOTION OF NATIONAL GUARDIAN LIFE INSURANCE COMPANY
FOR RELIEF FROM THE AUTOMATIC STAY

NOTICE:

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITH FOURTEEN (14) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

National Guardian Life Insurance Company, individually and as applicable for any participant ("**National Guardian**") moves for an order terminating the automatic stay pursuant to 11 U.S.C. § 362(d), Federal Rule of Bankruptcy Procedure 4001, and Western District of Texas Local Rule of Bankruptcy Procedure 4001. In support of this motion, National Guardian submits the affidavit of Robert A. Mucci (the "**Mucci Affidavit**"), attached hereto as Exhibit 1 and incorporated herein by reference.

BACKGROUND

1. On July 28, 2010 (the "**Petition Date**"), LJR Properties, Ltd. (the "**Debtor**") filed a voluntary petition for relief in this Court under Chapter 11 of Title 11, United States Code ("**Bankruptcy Code**").

2. The Debtor executed a Deed of Trust Note dated July 27, 2005 (the "**Note**"), payable to National Guardian in the original principal sum of $5,300,000.00. The Note is secured by a Deed of Trust and Security Agreement and Fixture Filing Statement dated July 27, 2005 (the "**Deed of Trust**") and an Assignment of Rents and Leases also dated July 27, 2005 (the "**Assignment of Rents**").

3. The Deed of Trust is filed of record in Bell County, Texas, and covers real and personal property described therein (the "**Property**"), including a hotel project commonly referred to as the Howard Johnson Inn located in Killen, Texas.

4. The Note, the Deed of Trust, the Assignment of Rents, and any other agreements or instruments that secure the Note or that are related to the loan evidenced by the Note are hereinafter collectively referred to as the "**Loan Documents.**" Copies of the Note, the Deed of Trust, and the Assignment of Rents are attached as Exhibits A, B, and C to the Mucci Affidavit.[1]

5. National Guardian and the Debtor executed a Loan Modification Agreement dated as of June 30, 2010, and a Work-Out Agreement dated as of June 30, 2010 (also executed by Rossco Plaza, Inc.). Copies of the Loan Modification Agreement and the Work-Out Agreement are attached as Exhibits D and E to the Mucci Affidavit.

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[1] The Mucci Affidavit and it's Exhibits are voluminous. Therefore, they are attached only to (1) the copies of the Motion served via United States Mail upon the Debtor and the Debtor's counsel and (2) the copy of the Motion filed through the Court's electronic filing system. They are not attached to copies of the Motion served via United States Mail upon other parties but will be provided upon request. To obtain copies of the Mucci Affidavit Exhibits, please contact National Guardian's counsel at the phone number listed below.

6. Defaults exist and continue under the Loan Documents. Without limitation, the Debtor has failed to make payments when due and owing under the Note. The Debtor's commencement of this case is also a default.

7. As of the Petition Date of July 28, 2010: (i) the unpaid principal balance of the Note is $4,856,963.62, and (ii) there is accrued unpaid interest due and owing under the Note. Additionally, National Guardian has incurred, both before and after the commencement of this case, expenses, costs and fees arising out of this case, the default under the Note and the Loan Documents, and National Guardian's review/exercise and protection of its rights and remedies, including legal fees provided for in the Loan Documents.

ARGUMENT AND RELIEF REQUESTED

8. National Guardian requests relief from the automatic stay under both Sections 362(d)(1) and (2) of the Bankruptcy Code to permit it to exercise its rights and remedies under the Loan Documents and applicable law against the Property and the Debtor, including a foreclosure sale of the Property. In connection with this Motion, the Debtor bears the burden of showing that National Guardian's interest in the Property is adequately protected. 11 U.S.C. § 362(g).

9. Upon information and belief, the Debtor has little or no recognizable equity in the Property.

10. Further, the Debtor does not have a reasonable prospect for an effective reorganization within a reasonable time frame. Operations and cash flow from the Property will not support a reorganization by the Debtor. This case is a two party dispute.

11. Moreover, cause exists to modify the automatic stay. National Guardian's interest in the Property is not adequately protected. For example, and without limitation, the

Property needs significant repair and improvements. In fact, upon information and belief, the Property was closed between approximately December 2009 and July 2010 after a fire broke out and caused sprinkler water to overflow. The Debtor lacks resources to properly repair the Property.

12. At the same time, despite requests by National Guardian and the requirements of the Loan Documents, the Debtor has not provided National Guardian with proof of required casualty and liability insurance. National Guardian has received cancellation notices related to insurance. If the Debtor lacks insurance, immediate relief from the automatic stay should be granted. *In re Valdez*, 324 B.R. 296, 301 (Bankr. S.D. Tex. 2005) ("failure to maintain insurance on the property, keep taxes current, or filing in bad faith solely to forestall creditors, could be independent forms of relief under § 362(d)(1)."). Further, the Debtor has failed to pay property taxes or has financed the payment of taxes.

13. Finally, the Debtor's ability to operate remains in question. The revenue generated by the Property is National Guardian's cash collateral. There is no order authorizing use of cash collateral in this case. National Guardian has not consented to use of its cash collateral. The Debtor is either using National Guardian's cash collateral without consent—in violation of the Bankruptcy Code—or is not paying its bills and is jeopardizing operations.

14. Under these circumstances, National Guardian must be granted relief from the automatic stay under Section 362(d)(1) and (2) of the Bankruptcy Code and be permitted to exercise its rights and remedies under the Loans Documents and applicable law against the Property and the Debtor, including a foreclosure sale of the Property.

15. National Guardian requests that any stay of an order granting this motion be waived and that the order be effective immediately upon entry, there being no good reason for delay.

WHEREFORE: National Guardian requests that this Court enter an order granting National Guardian relief from the automatic stay and allowing National Guardian to exercise its rights and remedies under the Loan Documents and applicable law, including without limitation, proceeding with a foreclosure sale of the Property and such other relief as is proper.

Dated: August 17, 2010

Respectfully submitted,

/s/ Greg Lowry

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ATTORNEYS FOR NATIONAL GUARDIAN LIFE INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that I took steps to cause a true and correct copy of the foregoing to be served upon the Debtor and Debtor's counsel via United States mail, postage prepaid on August 17, 2010. I also took steps to cause a true and correct copy of the foregoing to be served upon those parties registered to receive electronic notice through the Court's electronic filing system on August 17, 2010.

I certify that I took steps to cause a true and correct copy of the foregoing, *without the Mucci Affidavit and it's Exhibits*, to be served upon the parties on the attached service list via first class United States Mail, postage prepaid, on August 17, 2010. The Mucci Affidavit and Exhibits will be provided to interested parties upon request.

/s/ Greg Lowry
Greg Lowry